

DEFERRED JUDGMENT OF GUILT AND DELAYED SENTENCE FOR ADULT OFFENDERS; COMPARISON OF PROCESSING

Revised 11/21/07 SCAO F:\Criminal\Deferred Judgment of Guilt

Action	Delayed Sentence MCL 771.1	Deferred Judgment of Guilt and HYTA ¹	Drug Court 2004 PA 224 MCL 600.1060 – 600.1082 Effective January 1, 2005	
			Defer/Delay ²	Traditional: Not eligible for Defer/Delay ³
Plea of Guilt or Finding of Guilt	Accepted and judgment of guilt entered.	Accepted but judgment of guilt not entered.	Accepted but judgment of guilt not entered.	Accepted and judgment of guilt entered.
Referral	May supervise under delay up to 1 year. The court shall enter an order stating the reason for the delay upon the court's records.	Defer further proceedings and place on probation. May place in drug treatment court if otherwise eligible.	Defer further proceedings and place on probation in drug treatment court.	Proceed to sentencing, place on probation in drug treatment court.
Caseload Reporting	Report as Guilty Plea, Bench Verdict, or Jury Verdict.	Report as Guilty Plea.	Report as Guilty Plea.	Report as Guilty Plea.
MSP Criminal History Reporting	Report conviction. Refer to MCL 771.1 in free-text area of the disposition report.	Report deferred judgment of guilt.	Report deferred judgment of guilt if underlying crime is reportable. ⁴	Report conviction.
SOS Abstract Reporting	Abstract reportable offenses pursuant to MCL 257.732.	Report deferred if Minor in Possession; otherwise no reporting required.	None.	Report conviction if a reportable offense.
Court Record Status	Public.	Public, except Minor in Possession and HYTA are nonpublic at time of deferral/assignment.	File public, but record of participation in drug court nonpublic.	File public, but record of participation in drug court nonpublic.
Supervision or Probation Successful	Conviction remains unless nolle prosequi filed.	Discharge from probation and dismiss.	If on probation, discharge and dismiss deferred proceeding.	Discharge as successful if on probation.
MSP Criminal History Reporting	Report pursuant to MCL 769.16a if disposition is changed.	Report successful completion of probation and dismissal.	Report successful completion of probation and dismissal, and participation in drug court. ⁴	Report successful completion of probation and participation in drug court. ⁴
SOS Abstract Reporting	Abstract reportable offenses pursuant to MCL 257.732. If case dismissed, remove previously submitted abstract.	Report dismissal if Minor in Possession; otherwise no reporting required.	None.	None.
Court Record Status	Public.	Nonpublic. MCR 8.119(E)(1)	Nonpublic. MCR 8.119(E)(1)	File public, but record of participation in drug court nonpublic.
Supervision or Probation Unsuccessful	Proceed to sentencing.	Enter conviction. Discharge probation as unsuccessful.	Enter conviction. Discharge probation as unsuccessful.	Discharge probation as unsuccessful.
MSP Criminal History Reporting	Court may update report to MSP to include sentence information.	Report date conviction entered and sentence.	Report date conviction entered and sentenced, and unsuccessful participation in drug court. ⁴	Report conviction and unsuccessful participation in drug court and sentence. ⁴
SOS Abstract Reporting	Abstract changes to reportable offenses pursuant to MCL 257.732.	Report date conviction entered if a reportable offense.	Report date conviction entered and sentenced on drug offenses.	None.
Court Record Status	Public.	Public.	File public, but record of participation in drug court nonpublic.	File public, but record of participation in drug court nonpublic.

¹ MCL 762.13, HYTA; MCL 333.7411, Controlled Substance; MCL 769.4a, Domestic Violence; MCL 750.350a, Parental Kidnapping; MCL 750.430, Health Professional Practicing Under Influence; MCL 436.1703, Minor in Possession of Alcohol.

² MCL 600.1070(C) uses the word “defer” but references the delayed sentence statute, MCL 771.1. Procedure somewhat follows other deferred judgment statutes. Not eligible if violent offender. (MCL 600.1060[g].) A person with a previous drug court dismissal, or charged with a traffic offense, is not eligible for defer/delay and dismissal in drug court.

³ Use when defendant is not eligible for discharge and dismissal, when charge is a traffic offense, or if already received a deferred judgment and dismissal in either drug court or pursuant to relevant section listed in note 1.

⁴ Because of a conflict between MCL 600.1076 and federal law, 42 CFR Part 2, the requirement to report a drug-court deferral, as well as successful or unsuccessful participation in a drug court, cannot be implemented. However, courts must report the final entry of conviction or dismissal to MSP according to MCL 769.16a.